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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,916	02/17/2004	William C. Cortner JR.	506474-0008	9008

27910 7590 09/13/2004

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KANSAS CITY, MO 64106-2150

EXAMINER
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SHAW, ELIZABETH ANNE

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 09/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/779,916

Applicant(s)

CORTNER, WILLIAM C.

Examiner

Elizabeth A. Shaw

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/17/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cortner, Jr. (3,902,461) in view of Mowbray et al (4,074,659). Cortner, Jr. Shows a method of making and apparatus of an animal insecticide applicator comprising a bag 22 for holding a quantity of insecticide 14, the bag having a top (unnumbered), two sides 24, 28 and a bottom 26, a first and second tie rope 70 stitched to and extending at least partially and in fact entirely across the length of a tube (unnumbered) extending the width of the bag 54, see fig. 10, the tie rope 70 having a length of rope hanging free at each end of the bag 54 for use in hanging the bag from an overhead support. The bag 111 including a coupler 126, see fig. 14, for joining the bag 111 in a side by side relationship, see fig. 15 to another bag 113. The bag 22 having a plurality of straps 36, see fig. 3a, along the top of the bag 22 through which the support or rope is inserted. Cortner, Jr. does not show the use of a rigid tubular support. Mowbray et al teach an insecticide applicator having a bag 1, filled with a quantity of insecticide 2, and having an rigid tubular support 4 coupled with and extending across the top 9 of the bag 1. With respect to claims 1 and 6, to use the rigid tubular support of Mowbray et al with the applicator of Cortner, Jr. would have been obvious to one skilled in the art in order to

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provide extra rigidity to the applicator to ensure maximum coverage and dispersal when in use. With respect to claims 4 and 9 to use the coupler of Cortner, Jr. Fig. 15 with the bag combination of Cortner, Jr. Fig. 3a and Mowbray et al would have been obvious to one skilled in the art in order to keep the opposite sides 24, 28 together to more efficiently dispense the insecticide within the apparatus.

### ***Conclusion***

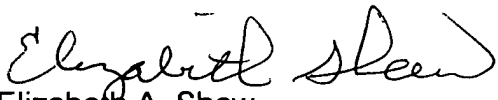
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Included for further reference on insecticide applicators are: McLaughlin (3,167,055), Knapp (3,364,900), Montgomery (4,091,767), Moore et al (5,666,906) and Greeson (6,230,660).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Shaw whose telephone number is 703-308-1853. The examiner can normally be reached on M-Th 9:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 703-305-7421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Elizabeth A. Shaw  
Examiner Art Unit 3644

September 3, 2004

  
TERI P. LUU  
SUPERVISORY PRIMARY EXAMINER